

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 11965 of 2004

Between:

M/s Ananda Agro Services Kovvur West Godavari District
Rep. its Proprietor Smt. V.Malathi Devi W/o. Gopala Krishna, aged 28 years.

..... PETITIONER

AND

- 1 Joint Collector West Godavari District, Eluru.
- 2 Mandal Revenue Officer, Buttaigudem West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus declaring the impugned suspension order dated 1-7-2004 in Roc.No.CSV/477/2004 passed by the 1st respondent as illegal, arbitrary, biased, unconstitutional and against the principles of Natural Justice and also violative of the provisions of A.P. Petroleum Products (L&RS) order, 1980 and E.C. Act,1995.

Counsel for the Petitioner:SMT.D.LALITHA PRASAD

Counsel for the Respondents:GP FOR CIVIL SUPPLIES

The Court made the following order:

The petitioner is a wholesale dealer in respect of kerosene and he has been carrying on his business at Kovvur of West Godavari District. The Joint Collector, Eluru, West Godavari District, the first respondent herein, issued a notice dated 01.07.2004, wherein it has been alleged that the petitioner is indulging in clandestine business in distribution of kerosene to the fair price shop dealers and, therefore, calling upon him to show cause as to why his licence should not be cancelled. The two charges framed against the petitioner are based on the allegation that the petitioner has been indulging in clandestine business by making a short delivery of 740 Lts and issuing bills for 1126 Lts of kerosene without physically delivering the kerosene, thereby violating the conditions of the licence. Under the same proceedings, the licence of the petitioner has also been suspended pending enquiry under Clause 28(1) of the Andhra Pradesh Petroleum Products (L&RS) Order, 1980. The petitioner states that in pursuance of the said notice, he has already submitted an explanation dated 17.7.2004. The said order of the Joint Collector dated 1-7-2004 is under challenge in the present writ petition. I have heard

the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

The learned counsel for the petitioner contended that the impugned order, which has been passed without giving any prior notice, is in violation of the principles of natural justice. He also contended that the allegations made against the petitioner are without any basis and the respondents failed to appreciate that there is no complaint from any one of the dealers with regard to the alleged short delivery of the kerosene.

Since by virtue of the impugned proceedings the licence of the petitioner has been suspended pending enquiry, but not by way of punishment, I am of the view that the same cannot be declared as illegal merely on the ground that there was no prior notice. So far as the merits of the case are concerned, admittedly, the enquiry is pending before the Joint Collector who is the licensing authority. It is open to the petitioner to substantiate his pleas by producing necessary material before the Joint Collector.

In the circumstances, I am of the view that the relief as prayed for cannot be granted in this writ petition. Instead, I deem it appropriate to dispose of the writ petition with a direction to the first respondent to consider the explanation offered by the petitioner in pursuance of the impugned show cause notice dated 1.7.2004, and pass appropriate orders in accordance with law as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order.

Accordingly, the writ petition is disposed of. No costs.

26th July, 2004

sj

To:

- 1 The Joint Collector West Godavari District, Eluru.
- 2 The Mandal Revenue Officer, Buttaigudem West Godavari District.
- 3 Two CCs to the Government Pleader for Law & Legislative Affairs, High Court Building, Hyderabad. (OUT).
- 4 Two C.D. copies.